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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,682	04/21/2004	Elizabeth A. Farmer	JR-2004-61	4470

50017 7590 03/09/2005  
MITCHISON LAW OFFICES, PC  
115 EAST NINTH STREET  
ANDERSON, IN 46016-1509

EXAMINER
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MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/828,682	FARMER, ELIZABETH A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vishu K Mendiratta	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/29/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant is claiming a human being in claim 1(e).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4-6 rejected under 35 U.S.C. 102(b) as being anticipated by Bolach (4003577).

Claims 1,4-6: Bolach teaches a board game (10), spaces with categories of action indicia (22) in simple geometric figures, cards with indicia corresponding to spaces (18), chance device (14) as a spinner.

Note that "whereby" clause is the intended of the apparatus and do not further limit the claimed apparatus.

Applicant may note that chance devices such as a set of dice, spinners and bag full of numbers are art recognized alternatives and are used one for the other. This is treated as inherently taught in the cited game.

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4. Claim 7 rejected under 35 U.S.C. 102(b) as being anticipated by Carrera (4273227).

Carrera teaches depicting a pathway (10), advancing on the path according to a spinner (Fig.4), providing tokens for positioning (Fig.2), providing activities to interact between adult and children (abstract). Communication between an adult and children is being treated as monitoring and feedback between them.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Bolach in view of Ex. Parte Breslow 192 USPQ 431.

The only difference between the cited categories and applicant's categories resides in meaning and information conveyed by the printed matter and not considered patentable differences. In order to create a variation in game for another group of players, it would have been obvious to use different types of categories.

One of ordinary skill in art at the time the invention was made would have suggested placing other categories to attract a different group of players.

7. Claims 3-4 rejected under 35 U.S.C. 103(a) as being unpatentable over Bolach.

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Claim 3: Bolach teaches all limitations except the intended use of the game on a computer.

It is a common practice in this day and age to present a game on a computer media for the purpose of reaching a wide section of population.

In order to make the game available to a wide section of population, it would have been obvious to use a computer medium to promote a game.

One of ordinary skill in art at the time the invention was made would have suggested playing the game on computer.

Claim 4: Bolach does not expressly indicate using dice or bag of numbers.

Applicant may note that chance devices such as a set of dice, spinners and bag full of numbers are art recognized alternatives and are used one for the other.

Whereas some players like to use a set of dice others like spinners or bags of numbers.

The essence is to randomly determine a number to move. In order to approach different groups of players, it would have been obvious to use different random devices.

One of ordinary skill in art at the time the invention was made would have provided all three different types to satisfy all groups of players.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKM  
March 4, 2005